



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
JULY 12, 2011

The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Robert Melillo, Gary Renz, and Alternates Elmer Palma and Thomas Spegnolo.

Absent were, Walter Hoo, Richard P. Jowdy, Alan Kovacs, Terry Tierney, and Alternate Patrick Venuti.

Chairman Melillo said Mr. Venuti was not present this evening due to a death in the family. Vice-Chairman Haddad said the Commission extends their sympathy to Mr. Venuti and his family.

Chairman Melillo asked Mr. Palma to take Mr. Kovac's place and Mr. Spegnolo to take Mr. Hoo's for the items on tonight's agenda.

Mr. Spegnolo led the Commission in the Pledge of Allegiance.

Chairman Melillo said the next regular meeting will be held on August 9, 2011. The July 26, 2011 meeting has been cancelled. He said they also would table acceptance of the minutes.

PUBLIC HEARINGS:

7:30 PM – Petition of the Shops at Marcus Dairy for Special Permit for Grocery Beer Permit at 5 Sugar Hollow Rd. (#G17002 & #G17019)

Mr. Renz read the legal notice. Chairman Melillo said the applicant has received approval of the revised site plan for this specific use from the Planning Commission.

Attorney Neil Marcus said this request is for their tenant at the Shops at Marcus Dairy. The tenant is a "Whole Foods" grocery store that takes up almost 50% of the site. The only sale of beer on the site will be as an accessory to this grocery store. He said they have received approval of the revisions that are necessary to accommodate a grocery store instead of a

retail store. Mr. Haddad asked where on the property this store would be located. Attorney Marcus pointed it out to him on the site plan.

Mr. Elpern said this petition meets all of the requirements in Sec. 3.F.2. of the Zoning Regulations.

Mr. Haddad made a motion to close the public hearing. Mr. DiCaprio seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move this matter to number one under the Old Business on tonight's agenda. Mr. Palma seconded the motion and it was passed unanimously. Chairman Melillo pointed out to Attorney Marcus that they only have seven members present to vote tonight and Attorney Marcus said to go ahead and vote.

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7:45 PM – Petition of Scott Benincasa & David Benincasa to Amend Secs. 2.B. & 5.B.2. of the Zoning Regulations. (Add “Indoor Shooting Range” to CA-80 Zone)

Mr. Renz read the legal notice. Chairman Melillo read the Planning Department Staff Report dated May 25, 2011. He said we have not yet received the Planning Commission recommendation so the hearing will be continued.

Attorney Dom Chieffalo spoke in favor of this petition. He said since this is a completely new use he will explain what they want to do and then answer questions. He said the applicants want to open an indoor shooting range in addition to selling firearms. The shooting range is meant to be complimentary to the sales, but the uses are to remain independent of each other. The reason for this is that if one of the uses does not do well, they want to be able to continue the more successful one without it being dependent on the other.

Mr. Palma asked if there would be separate permits for the two uses. Attorney Chieffalo said no this would be considered one business combining both uses. He said the biggest concern most people have is about the safety. He said regarding the projectile issue, none should leave the building. This would be restricted to small caliber handguns and rifles. He said keeping it to guns/rifles of this size would limit the power and velocity. He suggested they amend the definition to say .22 caliber rifles and handguns no bigger than .45 caliber. He said this is a highly regulated business and all of the information is contained within the NRA Range Sourcebook. He showed the Commission his copy of this book, it is a 5-6 inch binder. He said the requirements for a shooting range are spelled out in great detail; it addresses safety, noise, ventilation, as well as the construction requirements. The booths have to have baffles and backstops in them to stop the bullets. All ceilings and walls have to be built to high noise absorbency levels so nothing can be heard from outside of the building.

Mr. Elpern asked if any part of the building will be below ground level. Attorney Chieffalo said no, even though this is not a site specific application, the applicants happen to own a

parcel located on Mill Plain Rd. This parcel is scooped out of the ledge and backs up to a big hill. He said if they were to use this parcel these facts would be beneficial to this type of use because it would be an additional way to help to contain the sound within the building. He said the ventilation is also extremely important because lead particles fly out after a gun is shot. It is not enough to just maintain the air flow throughout the building. The air handlers have specific filters that will remove the lead before the air is filtered outside. The booths must be separated by bullet proof material that is capable of stopping a bullet – this is called out in the NRA Sourcebook. It also addresses discharged shells and muzzle flash.

Attorney Chieffalo said there are 16-18 thousand indoor shooting ranges in the United States and there is a growing demand for one in the Danbury area. There is one in the new Police station but it is not open to the public. The closest one that is open to everyone is in New Milford. He said not every site is suitable for this use and the build-out has to be done in accordance with the NRA Sourcebook. Mr. Spegnolo asked if people will have to be a member to use this place. Attorney Chieffalo said they do not, but they do need to have a “carry permit” if they want to bring their own gun in. He added that this place will be required to obtain a Federal Firearms License in order to sell firearms. Dick’s Sporting Goods at the Mall sells long guns, rifles and ammunition. Sports Authority has stopped selling both firearms and ammunition. The person who holds the Federal Firearms License is responsible for complying with all of the requirements in the NRA Sourcebook. Mr. Farah asked what the waiting period is to purchase a gun. Attorney Chieffalo said two weeks. He added that you must be at least 21 years old to purchase a gun and you cannot do this without first obtaining a carry permit. Mr. Haddad asked about hours of operation. Attorney Chieffalo said this too is regulated, there are specific laws about the noise levels that are tied to time. He added that most of these laws are aimed more at outside shooting ranges. He said every aspect of the design and construction of this indoor range is regulated. They have to use a licensed professional engineer who is experienced in the design of such facilities. This engineer also has to provide a signed and sealed certificate that the plans comply with all Federal, State and local standards for this use. And before they can open, the NRA had to come in and certify that everything is done properly.

Scott Benincasa, one of the applicants, said that once they apply for the Federal Firearms License, they have to attend mandatory meetings and the facility will be subject to unannounced annual inspections. They also have the right to audit the books at any point in time. He added that he and his brother have owned this property since 2007. Mr. Haddad asked about the gas line easement. Mr. Benincasa said the area that the easement goes through is the parking lot.

Mr. Elpern recommended the Commission continue the public hearing so he can meet with Attorney Chieffalo and they can decide what additional provisions should be added to the language.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Haddad made a motion to continue this public hearing. Mr. DiCaprio seconded the motion and it was passed unanimously.

OLD BUSINESS

Petition of the Shops at Marcus Dairy for Special Permit for Grocery Beer Permit at 5 Sugar Hollow Rd. (#G17002 & #G17019)

Mr. DiCaprio made a motion to approve this petition for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood.

Mr. Spegnolo seconded the motion and it was passed unanimously with seven ayes.

Chairman Melillo noted that there was no New Business, nothing under Correspondence or Other Matters and nothing under For Reference Only.

At 8:30 PM, Mr. Spegnolo made a motion to adjourn. Mr. DiCaprio seconded the motion and it was passed unanimously.